

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

C.A. No. 1:05-10979 DPW

**IRON MOUNTAIN INFORMATION
MANAGEMENT, INC.**

Interpleader-Plaintiff,

v.

**L&L TEMPORARIES, INC., FLEXIBLE
FUNDING, LLC, and THE UNITED
STATES OF MERICAL THROUGH THE
INTERNAL REVENUE SERVICE,**

Interpleader Defendants.

**THIRD ASSENTED TO
MOTION TO CONTINUE
RESPONSE DEADLINE**

Pursuant to Fed. R. Civ. P. 6(b), Flexible Funding, LLC (“Flexible”) moves for an extension of the deadline by which Flexible is obligated to answer or otherwise respond to the First Amended Complaint until October 25, 2005. In support of this motion, Flexible states:

1. In this litigation, Iron Mountain Information Management, Inc. (“Iron Mountain”) is seeking to, among other things, interplead \$231,416 claimed by Flexible, L&L Temporaries, Inc. (“L&L”), and the United States of America through the Internal Revenue Service (“IRS”).

2. After receiving service of the summons and complaint, Flexible was obligated to answer or otherwise respond to the First Amended Complaint by or before August 15, 2005.

3. On August 15, 2005, Flexible filed its first Assented to Motion to Continue the Response Deadline, which sought an extension until August 29, 2005. That motion was allowed. On August 29, 2005, Flexible filed its Second Assented to Motion to Continue the

Response deadline, which sought an extension September 27, 2005. That motion was also allowed.

4. There are two reasons Flexible should be granted a third extension of the answer/response deadline.

A. First, the parties agree that the continued exploration of a possible settlement, before incurring additional litigation costs, is in their mutual benefit. The parties believe that an extension of the answer/response deadline will facilitate settlement possibilities.

B. Second, there is a related case, pending in California, that may impact the scope of this litigation. In *Flexible Funding, LLC v. Iron Mountain Management, Inc.*, Case No. 05-02082 (N.D. Ca.), Flexible claims, among other things, that Iron Mountain made diverted payments to L&L. Iron Mountain has moved to dismiss the case or, in the alternative, to transfer venue to this Court. Flexible has opposed Iron Mountain's motion. On October 7, 2005, the United States District Court for the Northern District of California is scheduled to hear oral argument.

5. One or more of the parties intends to move for a continuance of the scheduling conference in this case, which is currently scheduled for October 13, 2005.

6. Iron Mountain assents to the relief sought herein.¹

¹ Although the IRS did not have an opportunity to comment on this motion before it was filed, the IRS, through its counsel, previously indicated that it would assent to a third extension of Flexible's answer/response deadline. As of the date hereof, L&L has not appeared in this litigation.

WHEREFORE, Flexible requests that the Court enter an order extending deadline by which Flexible is obligated to answer or otherwise respond to the First Amended Complaint until October 25, 2005.

FLEXIBLE FUNDING, LLC,

By its attorneys,

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Assented to by,

**IRON MOUNTAIN INFORMATION
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By its attorneys,

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Dated: September 27, 2005

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